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FISCAL IMPACT STATEMENT

LS 6865 | **NOTE PREPARED:** Jan 3, 2006
BILL NUMBER: SB 260 | **BILL AMENDED:**

SUBJECT: Various property tax issues.

FIRST AUTHOR: Sen. Kenley | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: This bill adjusts the procedure for a public utility company to appeal the distributable property assessment of the Department of Local Government Finance (DLGF) to the Board of Tax Review. The bill allows a designee of the commissioner of the DLGF to attest copies of certain documents used to prove an action, rule, or order of the DLGF. It allows a taxpayer that initiated an appeal to the DLGF of a political subdivision's budget, rate, and levy to seek judicial review if the DLGF fails to act on the appeal in a timely manner. The bill allows the county auditor to amend assessed valuation (AV) information provided to the DLGF and political subdivisions that is used to set property tax rates. The bill provides that the DLGF rules for assessment of real property are not required to include instructions for determining depreciation or reproduction cost. It allows a civil taxing unit to appeal for an excessive property tax levy to cover a shortfall caused by tax delinquencies. It allows an increase in a civil taxing unit's maximum permissible levy to offset the effects of temporary adjustments in any preceding year after 2003. The bill changes the annual deadline for filing for various property tax benefits for individuals from May 10 to June 10. It also requires the county auditor to publish an annual notice of the availability of various property tax benefits. The bill states requirements for maintaining a class action suit against the DLGF.

Effective Date: Upon passage; July 1, 2006.

Explanation of State Expenditures: *Utility Appeals.* This bill adjusts the procedure for a public utility company to appeal the distributable property assessment of the Department of Local Government Finance (DLGF) to the Board of Tax Review (IBTR).

Under existing law, within ten days after a public utility company receives the notice of the DLGF's tentative assessment, the company may file with the DLGF its objections to the tentative assessment and demand that the DLGF hold a hearing on the tentative assessment. If the public utility does not file with the DLGF its objections within the time allowed, the tentative assessment is final and may not be appealed. A taxpayer may appeal a DLGF final assessment to the IBTR only if the taxpayer first objected to the tentative assessment.

The bill provides that (1) the taxpayer may request a preliminary conference (and not a hearing) with the DLGF within the 10 day period, (2) the DLGF may hold a conference at their option, and (3) the utility may appeal a final determination to the IBTR regardless of whether the taxpayer objected to the tentative assessment. These provisions could result in the DLGF conducting fewer formal appeals and in the Board of Review processing more appeals. The specific impact is indeterminable and will depend on the number and nature of objections and appeals that result after the provisions take effect relative to the number and nature that would occur under existing law. The DLGF and the Board of Review should be able to cover any additional costs given their existing resources.

Class Action Suit Against the DLGF. The bill provides that a class action suit against the DLGF may not be maintained in any court, including the Indiana tax court, on behalf of a person who has not complied with certain requirements before the certification of the class. This provision may result in fewer class action suits against the DLGF. The fiscal impact is not expected to be significant.

Failure to Act on an Appeal. The bill provides that a taxpayer who signed the statement filed to initiate an appeal of a county board of tax adjustment's action on a taxing unit's budget may appeal for judicial review if the DLGF fails to act on the appeal. The provision may result in more cases before the tax court which would increase administrative expenses for the court.

Expanding the Levy Shortfall Appeal and Maximum Levy Changes. The state pays a 20% Property Tax Replacement Credit (PTRC) on qualifying fund levies that are attributable to property other than business personal property. Likewise, the state pays a 20% Homestead Credit on the net tax due (after PTRC) of the reassessment fund levies that are attributable to homesteads.

Subject to appropriation, if property tax levies rise or fall as a result of this bill as explained below, then the state's expense for PTRC and Homestead Credits could also change in a similar fashion. The amount of the potential change is not known and is dependent on local action. PTRC and Homestead Credits are paid from the Property Tax Replacement Fund (PTRF) which is annually supplemented by the state General Fund. Changes in PTRF expenditures would ultimately affect the General Fund.

It is estimated that the FY 2007 appropriation for PTRC and Homestead Credits will not be sufficient to fully fund the CY 2007 credits. As a result, the 60% school general fund PTRC, 20% real property PTRC, and the 20% Homestead Credit percentages will be proportionately reduced. A change in the levy under this proposal would have an effect on the amount by which the credit percentages are reduced.

The state impact for FY 2008 and all following years is indeterminable as it depends on local action and since PTRF appropriations for years after FY 2007 have not yet been made.

Technical Changes. The bill changes the date (from May 10 to June 10) by which claims for deductions must be filed. This provisions will have no significant fiscal impact.

Under current law, the DLGF's record is sufficient evidence in all courts or proceedings to prove an action, rule, or order if the copy is certified by the commissioner and attested to by the deputy commissioner. The DLGF no longer has a deputy commissioner. This bill would allow a designee of the DLGF Commissioner to attest to the record rather than the deputy.

The bill eliminates the requirement that the DLGF's rules and instructions for determining the assessment of real property must include instructions for determining depreciation and the cost of reproducing improvements.

Real property is assessed on a market-like basis. The assessment rule (manual) requires that the assessor determine a market-related value. The means by which the value is determined is left up to the assessor. One accepted method has been to determine a value under the "cost less depreciation" method (the former assessment method) and then applying a sales factor for the neighborhood to approximate market value. The required instructions in the current rule govern this method. Costs for the manual for the 2003 reassessment are listed in the following table.

Appraisal Research Corporation contract to develop cost tables	$122,500
Consulting contract w/Joe Beres; developer of original tables in 1970's	25,000
International Association of Assessing Officers contract to review manual	50,000
Contract w/Avalon Group for technical writing and desktop publishing	50,000
Marshall and Swift Publications licensing fee for use of cost figures (4yr. license)	240,000
Printing of manual	50,000
Staff costs for DLGF staff	unknown
TOTAL	$537,500

Explanation of State Revenues: *Utility Appeals*. Adjusting the appeal process could result in a change in the overall state AV. The State levies a small tax rate for State fair and State forestry. Any change in the AV base will change the property tax revenue for these two funds.

Explanation of Local Expenditures: *Amendments to Certified Statements.* After the county auditor sends a certified statement to each political subdivision pertaining to property tax information and before the DLGF certifies its action to the political subdivision, the county auditor may amend the information concerning assessed valuation (AV) that was included in the earlier certified statement. The county auditor must send an amended certified statement to each political subdivision affected by the amendment and the DLGF. Before the county auditor makes an amendment, the county auditor must provide an opportunity for public comment on the proposed amendment at a public hearing. The county auditor must also give notice of the hearing. However, the county auditor is not required to hold a public hearing if the amendment is proposed to correct a mathematical error made in determining AVs or if the auditor is adding omitted property discovered after the certified statement was sent. These provisions will have an impact on local administrative expenditures; however, the specific impact is indeterminable and will depend on the number and nature of amendments that county auditors make to certified statements.

Publication of Information Pertaining to Credits and Deductions. The bill provides that before May 10 of each calendar year, the county auditor must publish in a newspaper of general interest and readership and not one of limited subject matter a notice that includes information about deductions and credits. It is unlikely that this requirement will have a significant impact on county expenditures.

Explanation of Local Revenues: *Expanding Levy Shortfall Appeal*. Beginning with 2006 appeals, a civil taxing unit may request permission from the Local Government Tax Control Board to impose a levy that exceeds the maximum permissible levy if the unit experienced a property tax revenue shortfall because of one or more property tax delinquencies. This provision could result in some local units being able to levy additional taxes. The specific impact, however, is indeterminable.

Maximum Levies. Under current law, a taxing unit's maximum levy is computed by applying a growth factor to the previous year's actual controlled levy after adjusting for any temporary levy adjustments made in the previous year. Beginning with taxes paid in CY 2007, this bill would allow an adjustment to be made for reversing temporary adjustments made in any previous year after 2003. This provision could increase or reduce maximum levies for some local units. A change in maximum levies would most likely have a similar effect on actual levies.

State Agencies Affected: DLGF, State Board of Tax Review, Tax Court.

Local Agencies Affected: Counties.

Information Sources:

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